

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE PEREZ,

Plaintiff,

v.

EDMUND G. BROWN, et al.,

Defendants.

No. C 12-4298 JSW (PR)

ORDER OF TRANSFER

(Docket No. 5)

Plaintiff, a California prisoner incarcerated at California State Prison, Lancaster, has filed this pro se civil rights complaint under 42 U.S.C. § 1983 complaining of medical care he received when he was incarcerated at California State Prison, Tehachapi.


When, as here, jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court *sua sponte* where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

1 Tehachapi, where the defendants and events giving rise to the complaint are
2 located, lies within the venue of the United States District Court for the Eastern District
3 of California. Accordingly, IT IS ORDERED in the interest of justice, and pursuant to
4 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United States District
5 Court for the Eastern District of California. Ruling on Plaintiff's pending motion to
6 proceed in forma pauperis is deferred to the Eastern District.

7 The Clerk of the Court shall transfer this matter forthwith and terminate docket
8 number 5 from this Court's docket.

9 IT IS SO ORDERED.

10 DATED: October 23, 2012

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12 JEFFREY S. WHITE
13 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GEORGE ANTHONY PEREZ,
Plaintiff,

Case Number: CV12-04298 JSW

CERTIFICATE OF SERVICE

v.


EDMOND G. BROWN et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 23, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jorge Perez
44750 60th Street, West
Lancaster, CA 93536

Dated: October 23, 2012


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk